

Hon. Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

ALEJANDRO-RAY PEDROTTI
CALDERON,

Plaintiff,

vs.

DYNAMIC COLLECTORS, INC.,

Defendant.

No. 3:17-cv-5321 RBL

DEFENDANT'S RESPONSE TO
PLAINTIFF'S MOTION FOR
EXTENSION OF TIME

NOTED FOR HEARING:
JUNE 9, 2017

I. INTRODUCTION

Defendant Dynamic Collectors, Inc. ("Dynamic") objects to Plaintiff's motion for an enlargement of time to respond to Dynamic's motion to dismiss, (Dkt 8), and requests that the motion be denied. Plaintiff has filed a response brief. (Dkt 9), and the frivolous claims against Dynamic should be dismissed without delay.

However, if the Court grants Plaintiff's motion, then Dynamic requests that:

(1) Plaintiff's supplemental response brief be due on or before Monday, July 3, 2017, rather than Wednesday, July 5, 2017, so that Dynamic will have sufficient time under LCR 7 to reply; and

(2) That this be the sole extension of time granted to Plaintiff for this purpose, and not a precursor to an open-ended avoidance of Dynamic's motion to dismiss.

II. FACTS

A. Plaintiff's debt is based on failure to pay traffic infraction fines.

On July 23, 2016, Plaintiff was charged with speeding (RCW 46.61.400); operating a motor vehicle without proper insurance (RCW 46.30.020); and possession of marijuana in a motor vehicle (RCW 46.61.745). (Dkt 1, Ex. D at 2) (p. 29 of 48). After a contested hearing, the Jefferson County District Court entered a "Finding/Judgment of Committed" for all three charges and fined Plaintiff \$842.00. (*Id.*). Plaintiff failed to pay his court fines, (*id.*), and the Jefferson County District Court assigned Plaintiff's case for collections. (*Id.* at 1) (p. 28 of 48).

On May 1, 2017, Plaintiff, appearing pro se, filed his Complaint, naming Dynamic. (Dkt 1). Plaintiff alleges violations of various consumer protection statutes, although his obligation does not arise from a consumer transaction. Plaintiff had opportunity prior to filing his lawsuit to obtain an attorney, but did not do so, choosing instead to represent himself *pro se*.

On May 18, 2017, Dynamic filed a Rule 12(b)(6) Motion to Dismiss. (Dkt 7). In this motion, Dynamic presents the purely legal argument that Plaintiff's obligation, which arises as a result of traffic infraction fines, is not a "debt" as defined by 15 U.S.C. § 1692a(5); is not a "claim" as defined by RCW 19.16.100(2); and does not arise from trade or commerce, as contemplated by RCW 19.86.010(2). Therefore, all of Plaintiff's claims fail as a matter of law.

On May 25, 2017, Plaintiff filed his motion for enlargement of time. (Dkt 8).

On May 31, 2017, Plaintiff filed a response to Dynamic's Motion to Dismiss. (Dkt 9).

III. ARGUMENTS

"[P]ro se litigants in the ordinary civil case should not be treated more favorably than parties with attorneys of record." *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir. 1986). "A litigant who chooses himself as legal representative should be treated no differently. ... [I]t is not for the trial court to inject itself into the adversary process on behalf of one class of litigant." *Id.* at 1364–65. A pro se litigant, plaintiff can be be treated with leniency as to

1 compliance with certain technical aspects of civil procedure. *Draper v. Coombs*, 792 F.2d 915,
 2 924 (9th Cir. 1986). But pro se litigants are nonetheless bound by the rules of procedure. *See*
 3 *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995); *Worthy v. ITT Tech. Inst.*, No. C09-0444JLR,
 4 2010 WL 1780250, at *3 (W.D. Wash. Apr. 30, 2010); *Sager v. Adamson*, No. C08-5463 FDB,
 5 2008 WL 4181599, at *1 (W.D. Wash. Sept. 8, 2008) (denying pro se plaintiff's motion for an
 6 extension of time and granting defendants' motion for dismissal for failure to state a claim).

7 Dynamic objects to the motion for an extension of time, as it merely permits Plaintiff
 8 with an opportunity to continue to maintain frivolous claims that are rightfully dismissed as a
 9 matter of law. No extension will change that, and Dynamic deserves to have such claims
 10 dismissed as early as possible. Plaintiff had opportunity prior to filing his lawsuit to obtain an
 11 attorney, but did not do so, choosing instead to represent himself *pro se*. Now, after the very
 12 first filing by Dynamic, Plaintiff already seeks to extend time, even though he has also already
 13 filed a response to the Rule 12(b)(6) motion.

14 However, it may be that the Court is amenable to giving Plaintiff more time to respond
 15 to Dynamic's motion to dismiss. If the Court decides to grant Plaintiff's motion for an
 16 enlargement of time, Dynamic requests that this be the only extension of time, and that the
 17 response brief be set on a date in which Dynamic has the full amount of time generally
 18 provided under LCR 7 to file a reply brief.

19 IV. CONCLUSION

20 Dynamic objects to Plaintiff's motion for an enlargement of time, and requests that the
 21 motion be denied. However, if the Court grants Plaintiff's motion, Dynamic requests that:

22 (1) Plaintiff's supplemental response brief be due on or before Monday, July 3, 2017,
 23 rather than Wednesday, July 5, 2017, so that Dynamic will have sufficient time under LCR 7 to
 24 reply; and
 25

1 (2) That this be the sole extension of time granted to Plaintiff for this purpose, and not a
2 precursor to an open-ended avoidance of Dynamic's motion to dismiss.

3 Respectfully submitted this 5th day of June, 2017.

4 LEE SMART, P.S., INC.

5
6 By: /s Marc Rosenberg
7 Marc Rosenberg, WSBA No. 31034
8 Of Attorneys for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that on the date provided at the signature below, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individuals:

Alejandro-Ray Pedrotti Calderon alexerectors@gmail.com

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, to the best of my knowledge.

Dated this 5th day of June, 2017 at Seattle, Washington.

LEE SMART, P.S., INC.

By: /s Marc Rosenberg
Marc Rosenberg, WSBA No. 31034
Of Attorneys for Defendant
Dynamic Collectors, Inc.

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